

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY AZURE,

Defendant.

CR 20-58-GF-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

Harry Azure (“Azure”) pleaded guilty to the offense of Assault Resulting in Serious Bodily Injury, in violation of 18 U.S.C. §§ 113(a)(6), 1153(a), as charged in Count 1 of the Superseding Indictment. (Doc. 18; Doc. 109.) The Court sentenced Azure to 32 months’ imprisonment followed by three years of supervised release. (Doc. 146.) Azure’s current term of supervised release began on February 17, 2023. (Doc. 169 at 1.)

On August 28, 2024, the United States Probation Office filed a Petition requesting revocation of Azure’s supervised release. (Doc. 171.) The Petition

alleged that Azure violated conditions of his supervised release by: (1) failing to follow the probation officer's instructions to remain at home for address verification and a home visit; (2) failing to follow the probation officer's instructions to report to the probation office; (3) failing to report for substance abuse testing on June 25, 2024; (4) failing to report for his substance abuse treatment session on June 25, 2024; (5) failing to report for substance abuse testing on August 13, 2024; (6) failing to report for his substance abuse treatment session on August 13, 2024; (7) failing to notify the probation officer of an employment change within 72 hours; (8) failing to report for substance abuse testing on August 27, 2024; (9) being terminated from outpatient substance abuse treatment on August 27, 2024; (10) failing to comply with violent offender registration requirements; (11) failing to make restitution payments for the months of March, April, May, July, September, October, and December of 2023, and March, April, May, July, and August of 2024; and (12) failing to complete monthly supervision reports for 17 of his 18 months of supervision. (Doc. 171 at 2–4.)

On October 11, 2024, the United States Probation Office filed an Amended Petition alleging that Azure also violated his supervised release by: (13) committing another federal, state, or local crime on June 17, 2024, by being

charged with the offense of simple assault, a misdemeanor, in violation of Fort Peck Tribal Code, Title 7, § 231. (Doc. 174 at 4.)

Azure attended a revocation hearing on October 15, 2024, before United States Magistrate Judge John Johnston. (Doc. 175.) Azure denied the allegations set forth in the Amended Petition that he violated his supervised release conditions by: (1) failing to follow the probation officer's instructions to remain at home for a home visit on December 20, 2023; (2) failing to follow the instruction to report to the probation office on December 21, 2023; (7) failing to notify his probation officer about a change in his employment within 72 hours; (10) failing to comply with his violent offender registration requirements since December 23, 2023; (12) failing to follow his probation officer's instruction to complete monthly supervision reports for 17 of his 18 months of supervision; and (13) committing another crime by being charged with simple assault in violation of the Fort Peck Tribal Code. Azure admitted the remaining allegations in the Amended Petition (3, 4, 5, 6, 8, 9, and 11). (Doc. 175.)

The Government moved to dismiss allegations (1), (2), and (13). (Doc. 175.) United States Probation Officer Annaliesa Fauth testified regarding allegations (7), (10), and (12). (Doc. 175.) Magistrate Judge Johnston found that the Government had met its burden of proof for allegations (7), (10), and (12)

based upon USPO Fauth's testimony. (Doc. 175; Doc. 180 at 5.) Magistrate Judge Johnston found that Azure could be incarcerated for up to 24 months and ordered to remain on supervised release for 36 months less any custody time. (Doc. 180). Magistrate Judge Johnston found that the United States Sentencing Guidelines called for a term of custody of 4 to 10 months. (Doc. 180 at 5.)

Magistrate Judge Johnston issued Findings and Recommendations on October 16, 2024. (Doc. 180.) Judge Johnston found that Azure has violated the conditions of his supervised release by (3) failing to comply with substance abuse testing requirements; (4) & (6) failing to report for scheduled substance abuse treatment sessions; (5) & (8) failing to report for substance abuse testing sessions; (7) failing to notify his probation officer about a change in his employment within 72 hours; (9) being terminated from his outpatient substance abuse treatment; (10) failing to comply with his violent offender registration requirements since December 2023 to the present; (11) failing to make restitution payments for several months; and (12) failing to follow his probation officer's instructions by failing to complete monthly supervision reports for 17 of the 18 months Azure has been under supervision. (*Id.* at 6.)

Magistrate Judge Johnston recommended that the Court revoke Azure's supervised release and sentence Azure to custody until noon on December 13,

2024, with 32 months of supervised release to follow. Magistrate Judge Johnston further recommended that upon completion of his custody, Azure shall be subject to home confinement until June 13, 2025, as an additional condition of his supervised release. (*Id.*)

Neither party filed objections to the Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS HEREBY ORDERED that Judge Johnston’s Findings and Recommendations (Doc. 180) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Azure is sentenced to custody until noon on December 13, 2024, with 32 months of supervised release to follow. Upon completion of his custody, Azure shall be subject to home confinement until June 13, 2025, as an additional condition of his supervised release.

DATED this 4th day of November, 2024.

A handwritten signature in blue ink that reads "Brian Morris".

Brian Morris, Chief District Judge
United States District Court